IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 2583 OF 2007

Mr.Gautam Khanduja. ... Applicant.

V/s.

State of Maharashtra. ... Respondent.

S.V.Marwadi with Shobha Salvi for the applicant.

S.S.Pednekar, A.P.P. for the State.

CORAM: V.C.DAGA, J.

DATED: 17th October 2007.

P.C.:

. Heard learned counsel for the applicant and learned A.P.P. for the State.

2. Perused application seeking modification of the order of this Court dated 11th November, 2004, whereby anticipatory bail has been granted in favour of the applicant on the terms and conditions incorporated in the order. One of the conditions imposed is that the applicant shall not leave the country without prior permission of the Court. He was directed to deposit his passport with the investigating officer (I.O.). Accordingly, the applicant- accused has deposited his passport and

complied with the order dated 11th November, 2004.

3. The applicant- accused had made oral prayer based on prayer clause (C-1) to seek directions against the I.O. to seek return of his passport so as to get it renewed. By interim order dated 12th September, 2007, I.O. was directed to consider the request of the applicant- accused for return of the passport for its renewal. Accordingly, passport was renewed and the same has now been deposited by the applicant with the I.O.

4. By this application, the applicant is now seeking permission to go abroad to visit some of the countries in connection with the business of the company in which he is serving in the capacity of the Managing Director of M/s.Mansons International Pvt.Ltd. having 100% export oriented business. The said company is manufacturing, distributing and supplying spare parts of heavy duty trucks and trailers.

5. Mr.Marwadi, learned counsel for the applicant, in support of his prayer, submitted that in the past applicant- accused was permitted to go abroad and without any reservation he came back and returned passport to I.O. He further submits that the company has invested on large scale in plant and machinery, ERP systems and quality management systems. He, thus,

submits that business expediency demands visits of the applicant- accused to various countries as such necessary permission may kindly be granted.

6. The aforesaid prayer is opposed by the learned A.P.P., appearing for the State. He submits that if at all this court decides to grant permission, then, it should subject to stringent conditions so as to secure presence of the applicant- accused for trial.

Consideration :

7. Having heard rival parties and considering past conduct of the applicant, who is accused in Sessions Case No.244/2005 arising out of C.R.No.271/2004 registered with Versova Police Station, Mumbai for the offence punishable under section 306 of Indian Penal Code on the complaint filed by one Mr.Nirmal Joseph in respect of suicide of his daughter Ms.Nafisa Joseph, which took place on 29th July, 2004, I am inclined to grant permission to the applicant to leave the country for a period of two months, considering the business expediency which demands visits of the applicant to the various countries, subject to following terms and conditions:

(a) The applicant- accused shall furnish itinerary of various countries with duration of his stay to I.O. with copy thereof to the Sessions Court well in advance.

(b) The applicant- accused shall hand over zerox copies of the VISA and passport duly notarised by the Notary Public to I.O. with one copy thereof to the Sessions Court.

(c) The applicant- accused before seeking custody of the passport from the I.O. / Sessions Court, as the case may be, shall furnish undertaking on oath to this court stating therein that he shall return back to India within a period of two months from the date of his leaving country and shall report to I.O. as well as the Sessions Court within three days from the date of his return and shall surrender his passport to I.O. on the 2nd day of his return.

(d) The applicant- accused, before seeking custody of his passport, shall furnish bank

guarantee in the sum of Rs.5 lakh drawn in favour of the Registrar General of this Court for the performance of the terms and conditions of this order with specific clause therein that breach of any of the conditions of this order shall entitle this Court to invoke bank guarantee. The bank guarantee should also contain one additional specific clause that, in the event of failure on the part of the applicant (customer of the bank), to surrender original bank guarantee to the guarantor- bank within three months from the date of leaving India, the bank shall remit the proceeds of the bank guarantee to the Registrar General of this court without there being any demand.

(e) In addition to the above condition, the applicant- accused shall also execute additional fresh P.R.Bond in the sum of Rs.25 lakh with one surety of his father, who shall undertake to make the accused available before the I.O. / Sessions Court, as the case may be, within a period of two and half months from the date of accused leaving country.

(f) The applicant- accused shall keep the I.O. informed about his weekly whereabouts with phone numbers, if any.

8. It is needless to mention that earlier order dated 11th November, 2004 shall stand modified to the extent mentioned herein. However, after return of the applicant, the order dated 11th November, 2004 shall operate in its original without any change therein.

9. In the result, application is disposed of the terms of this order.

JUDGE